

LAND SOUTH OF HENHAM ROAD, ELSENHAM

S62 HEARING PRESENTATION ON BEHALF OF THE APPLICANT

Thank you Sir.

First-off we should like to thank you for a very comprehensive and thorough Issues Report.

We take no issue with this and consider it a very good summary of the matters.

With regard to the main issues that you identify, there is no material dispute between the applicant and the statutory consultees on these, excepting highways.

It is notable that no consultation comments have been received, from any statutory party, that have resulted in the need for any amendments to the proposal.

Elsenham is a 'Key Rural Settlement' and, as has been concluded in relation to many other, recent, applications and appeals, a sustainable location for new residential development.

It benefits from a rarity in Uttlesford, in that it has a mainline railway station, that is within easy walking and cycling distance of the site.

Other local and community facilities and services are also present, again within easy walking and cycling distance of the site.

Turning to the five **Main Issues** that you identify:

Issue a. the implications for highway safety and the free flow of traffic on the highway network

Ian Wharton of Ardent Consulting Engineers commented:

The applicant team has sought to work pro-actively with Essex County Council Highways and other statutory consultees including Stansted Airport, to assess the impacts of the proposed residential development on the local highway network and react to comments raised. It is important to note that the assessment throughout has been undertaken robustly. The impacts of the development have been assessed on the immediate road junctions within Elsenham, and ECC Highways has confirmed that the immediate road junctions operate with sufficient reserve capacity. The areas of remaining dispute relate to the road network near to Stansted Airport and that of Stansted Mountfitchet.

However, regarding the former point, as set out earlier, MAG has now confirmed that they are satisfied that the impacts can be addressed following agreement on the level of contribution towards a wider set of highway works. This more holistic approach was preferred by MAG and ECC Highways over the schemes put forward in principle by the applicant here. The implementation of more significant improvements in and around the Stansted Airport network will add resilience to the wider highway network.

This leaves only the impacts on the Stansted Mountfitchet network as being in dispute by parties. It is to be noted that the level of development traffic predicted to pass through the Grove Hill junction is low with the absolute number of vehicles being less than 30 vehicles in the peak hour period, a 2% impact.

This is a vehicle less than every 2 minutes in the peak hours. The VISSIM model has been produced at the request of ECC Highways, noting that the traffic flows predicted are below the DfT level of 30 two-way movements in a peak hour and far below the 5% level usually taken as a starting point for analysis. It is noteworthy that the Station Road development which is around twice the size of the proposed development has been consented following a review by an Inspector who noted that both the Station Road development and the site considered here can be accommodated successfully on the road network including within Stansted Mountfitchet.

Crucially, the levels of robustness used within the VISSIM model here are such that the development impacts presented are considered overly pessimistic. As set out within the Transport Addendum Report, a variety of aspects can reduce the predicted traffic flows on the network. These include the substantial increase in bus services locally that will offer residents of both existing and consented developments access to regular non-car connections that currently do not exist. Home-working and hybridised working patterns are also expected to continue, further reducing the need to travel particularly in peak hours.

Without repeating previous aspects in detail, the modelling has been undertaken robustly in that all traffic passes through all key junctions, that all parking within Stansted Mountfitchet is occupied throughout the peak hours (something that has been evidenced not to occur) and that overlapping peaks have also been used. Whilst parties including the Parish Council dismiss these elements in correspondence, with fewer than 30 vehicles predicted to use this part of the network in a peak hour, small differences in travel patterns can have large offsetting potential when considering the scheme impacts.

It is noted that the Inspector for the Station Road decision at Paragraph 40 noted that a 10% reduction in trip generation rates for sites is not especially ambitious and saw no good reason why it could not be achieved. This is noted also in the evidence presented by Mr Watts whereby existing travel by bus locally is very low (at 1%) – this is simply as a result of the lack of a decent bus service frequency meaning residents (both proposed and existing) have limited access to a good bus service. The ability to increase bus usage would help to further offset any potential development (or other development) impacts presented. This is further supplemented by improved (as well as new) bus stops including Real Time Passenger Information and is to be promoted and incentivised through the Framework Travel Plan submitted with the application.

Detector mitigation on Grove Hill is secured by other developments previously consented. ECC has requested a contribution towards measures to reduce HGV movements through the Stansted Mountfitchet network which too would improve matters. In light of this, the observations made by the inspector for the Station Road site and further site visits, Ardent has also produced an indicative set of measures that could be introduced along Grove Hill to aid driver gap clearance along the bank of parked cars present. Whilst this informally occurs at present, existing driver behaviour sometimes causes blockages – this is perhaps why Mr Watts mentioned that the junction sometimes “locks up” randomly at times outside of peak hours which would be an otherwise odd occurrence given the drop off in vehicle flows outside

of peak times. The installation of such a scheme (or something similar) could help to prevent such occurrences, in the peaks as well as off-peak.

Finally, it should be noted that the consideration of junction impacts is focussed upon a 1-hour period in the AM / PM commuting periods. Outside of these intense periods of activity, the local highway network operates freely – something that Mr Watts acknowledged earlier.

The site is located close to the primary school and the local shops for daily needs, along with being walking and cycling distance from the railway station, doctors surgery and various open spaces / recreation areas. Other schemes consented locally including the scheme at Hall Road opposite the proposed site indicate that UDC or various Inspectors believe the local area to be sustainable for housing. This application should be judged equally on this basis.

It is our position that the scheme proposals would be compliant with local and national policy and that the scheme would not have a severe residual impact upon the local highway network.

Issue b. The effect on the character and appearance of the area.

Jane Betts of RPS briefly commented to note that the characteristics of the site are respected and retained (there is no verbatim record).

Sir, to summarise: this is a very contained site, both visually as Jane has just been discussing, and in planning context.

From a planning point of view, to the south-west, immediately on the opposite side of Hall Road, is a permitted development of 130 homes¹. To the north-east, on the opposite side of Henham Road, are two phases of a permitted development of several hundred more homes.

Both have been recently permitted in the same planning context in which you are considering this application.

Sir, of course the applicant accepts that the proposal would conflict with saved Local Plan policies S7 and S8; however several years ago an Inspector considering a proposal on another site in Elsenham² summed up the position as follows:

“... there can be little doubt that the LP is now painfully out of date in terms of its purpose, its strategy, its content and its housing delivery policies. It does not meet the requirement for the Council to have an up-to-date plan and it is clearly not a strong foundation upon which to refuse planning permission.”

Since then the Council has made virtually no tangible progress with a new Local Plan, and has delayed consultations repeatedly.

Sir, clearly we accept that the site is outside the previous settlement boundary and in both the countryside and the countryside protection zone; however the weight to be afforded to these

¹ UDC Appl. Ref. UTT/19/0462/FUL

² Appeal Ref. APP/C1570/W/19/3242550, para. 16

policies is significantly diminished by the engagement of the tilted balance, which is accepted by all parties.

Issue c. The effect on heritage assets.

Thomas Copp of RPS commented:

The Applicant has provided a detailed Built Heritage Statement (BHS) which meets the requirements of paragraph 194 of the NPPF and follows Historic England guidance related to assessing the impacts to the setting of heritage assets provided in GPA3: The Setting of Heritage Assets; 2nd edition (published December 2017).

This assessment work informed the design of the proposed development, which included identifying key design and mitigation measures (see BHS paragraph 4.3).

All parties agree any harm to significance of designated heritage assets is “less than substantial” and paragraph 202 is engaged.

There is little difference between Applicant’s assessment of harm and Essex County Council (Place Services) (see paragraphs 106-7 of the Inspector’s report) with any harm within the lower band of less than substantial harm.

Sir, Elsenham Parish Council refer you to an appeal decision and rely on this to suggest that the impact on the heritage assets has been underplayed.

Of course, the Applicant acknowledges the requirements of S66 of The Planning (Listed Buildings and Conservation Areas) Act 1990, including that special regard is paid to the desirability of conserving heritage assets, including where appropriate their settings.

The requirement in para 199 of the NPPF to attach great weight to the conservation of a heritage asset has been foremost in the Applicant’s consideration of the site, including prior to their acquisition of an interest in it, and the illustrative design proposal. This is evident from the submitted Planning Statement, the Built Heritage Statement, and the Design and Access Statement.

Historic England advise that:

*“... The LPA must place considerable weight (‘great weight’ in the terms of the NPPF) on the need for conservation. **This means that changes to listed buildings which may result in some harm should be avoided or, if that is not possible, the impact minimised.** ...”³*

This is the approach that the Applicant has taken.

The NPPF makes it clear that whilst giving great weight to the asset’s conservation, the amount of weight to be given also relates to the importance of the asset; in this case all of the affected assets are of the lowest Grade of listing, except for one – on which ECC consider there will be no impact, and all parties agree that any harm to the significance of the designated heritage assets is at the lower end of “less than substantial” and para 202 of the NPPF is engaged.

³ Listed Building Consent, Historic England Advice Note 16, para. 3, 2021

On this basis the Applicant considers that it is appropriate to conclude that only limited weight should be given to the resulting impact on the heritage assets in the overall planning balance (having given great weight to the lower “*less than substantial*” harm), and further, remains of the view that the public benefits of the proposal clearly and substantially outweigh the harm.

Issue d. The effect on biodiversity

Jess Breeze of SES Ecology did not comment.

Sir, as you note in your Issues Report:

- Natural England has **No Objection** to the proposal, subject to mitigation that would be secured by planning conditions and obligations; and
- likewise, Essex County Council has **No Objection** and considers that, with mitigation measures, the proposal is acceptable.

In summary, as concluded in the Ecological Assessment, with mitigation:

- impacts on the Hatfield Forest SSSI / NNR and Elsenham Woods SSSI would be **Neutral**;
- at a site level, the effect on habitats would be **Positive**; and
- there is the potential for a **Biodiversity Net Gain of at least 20%**.

Overall, the Applicant considers that the proposal accords with and / or exceeds the requirements of planning polices.

Issue e. Whether adequate provision would be secured for additional facilities, including transport, education, community facilities, and open space arising from the development

Sir, the proposal would secure the provision of all the additional facilities that the Applicant considers are required to make the proposed development acceptable in planning terms.

These are to be secured by the normal means via conditions and the obligations set out in the draft S106 Unilateral Undertaking that was submitted at the start of April⁴.

Sir, in your issues report⁵ you have very helpfully summarised the proposed obligations. In summary, the draft Undertaking includes all the obligations that the Applicant considers are required to make the proposal acceptable in planning terms, including all those obligations suggested by other parties, plus some that have not been requested in relation to this application, but which were required in relation to other similar developments in the locality.

Tom Newcombe of Birketts Solicitors briefly commented – there is no verbatim record.

⁴ 4th

⁵ Para. 122

Other matters

Sir, before turning to your matter (f), I thought it helpful to note a few points:

- The Applicant considers that the tilted balance is engaged for two reasons:
 - firstly that the most important policies for determining the application are out-of-date; and
 - secondly that the Council cannot demonstrate a 5YHLS.

On this second point, the Council was claiming a 3.52 year supply until last December, at which point it announced it could demonstrate a 4.89 year supply.

Sir, the Applicant has undertaken a review of this more recent claim and considers that the supply, as of the 1st April last year, was in fact only 4.06 years.

Further, we have projected the likely supply as of 1st April this year, and consider that it should be around 4.34 years.

We are aware that the Council is updating its assessment, and would like to flag that if it does so prior to the determination of this application, the Applicant might not agree with any figure claimed.

- Elsenham Parish Council has raised concerns with the design and layout as shown on the Illustrative Master Plan (DAP dwg ref. 300.01) and the Illustrative Layout Plan (DAP dwg ref. 303/03).

The Applicant does not agree with the Parish Council's observations, and considers the layout shown, which is only for illustrative purposes, to have been exceptionally carefully considered, with reference to all influencing factors.

Although the Applicant would be content with a condition that required broad compliance with, we suggest, the Illustrative Master Plan - that is, the illustrative plan that does not show individual homes.

With regard to housing mix, the Applicant proposes to meet all requirements for affordable and specialist housing, including the provision of 5% bungalows / M4(3) homes, the details of which will be determined at Reserved Matters stage.

- Regarding drainage, you helpfully note in your Issues Report that ECC, as the Lead Local Flood Authority raise **No Objection** to the proposal.

f. whether, having regard to the supply of housing, and applying the tilted balance set out in NPPF para 11(d)(ii), any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.

Sir, with regard to your final main issue – issue (f):

whether, having regard to the supply of housing, and applying the tilted balance set out in NPPF para 11(d)(ii), any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole

it is the applicant's position that there are no such adverse impacts.

I say this notwithstanding that there would be some conflict with some saved policies. However, in most part these are policies relating to the need for housing, location thereof, and which must be afforded significantly reduced weight.

The Applicant's position remains as set out in our original Planning Statement

When the Development Plan is considered as a whole, and all other material considerations are taken into account, the many evident public benefits of the Proposed Development clearly outweigh any resultant harm, including harm to the nearby heritage assets, there is no breach of the general development aspirations of the Plan, and there are no other reasons why planning permission should be refused.

Thank you.

Jonathan Dixon

Director, Savills

10/05/23